

E-Filed: December 19, 2014

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SAN FRANCISCO BAYKEEPER, a
California non-profit corporation,

Plaintiff,

v.

CITY OF SUNNYVALE

Defendant.

Civil Case No.: C 13-02425 HRL

**ORDER GRANTING PLAINTIFFS AND
DEFENDANT CITY OF SUNNYVALE'S
STIPULATION TO AMEND SETTLEMENT
AGREEMENT**

Good cause appearing, and based on the stipulation of the parties,

IT IS ORDERED that consistent with December 9, 2014 stipulation submitted by the Parties, the following portions of the October 2012 Settlement Agreement (included with Docket No. 20) are hereby modified to utilize the 2014-2015 wet weather sampling data to determine if a Feasibility Study is necessary and to extend the Feasibility Study due date provisions for the Concrete Recycling Facility as follows:

I. COMMITMENTS OF SUNNYVALE

...

C. Feasibility Study and Implementation Plan

16. Feasibility Study:

1 ...

2 b. In addition, if more than two (2) of the 2014-15 wet season sample results
 3 from all Initial Designated Discharge Points at the Concrete Recycling
 4 Plant for the same constituent exceed the Target Levels present in Exhibit 3
 5 and are not shown to be attributable predominantly to the presence of that
 6 pollutant in the landfill cap solids or native soils, both unaffected by
 7 industrial operations, as verified through testing of solids representative of
 8 concrete and asphalt materials processed within the Concrete Recycling
 9 Facility, Sunnyvale shall, in its Feasibility Study for the Concrete
 10 Recycling Facility, due no later than September 15, 2015, propose and
 11 implement non-structural and/or structural BMPs to reduce pollution runoff
 12 for the exceeding constituent(s) from the Concrete Recycling Plant.

13 c. ...

14 d. **Implementation Plan:** No later than May 15, 2015, Sunnyvale shall
 15 submit to Baykeeper a proposed timeframe and implementation plan based
 16 on the Feasibility Study for the SMaRT Station to ~~for~~ installing the selected
 17 necessary structural BMP(s). No later than December 15, 2015,
 18 Sunnyvale shall submit to Baykeeper a proposed timeframe and
 19 implementation plan based on the Feasibility Study for the Concrete
 20 Recycling Facility to install the selected necessary structural BMP(s).

21
 22 e. **Baykeeper Review of the Feasibility Study and Implementation Plan:**
 23 Baykeeper shall have twenty (20) calendar days from receipt to comment
 24 on any submitted Feasibility Study and Implementation Plan. Within
 25 twenty (20) business days of notification by Baykeeper of any comments
 26 on a submitted Feasibility Study, Sunnyvale shall respond to or incorporate
 27 all of Baykeeper's comments on the Study and begin drafting the
 28 Implementation Plan. Within twenty (20) business days of notification by

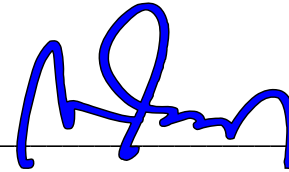
1 Baykeeper of any comments on a submitted Implementation Plan,
2 Sunnyvale shall respond to or incorporate all of Baykeeper's comments on
3 the Plan and begin implementation accordingly. If the Parties cannot agree
4 on Baykeeper's conclusions for BMPs based on the Feasibility Study or
5 comments on the Implementation Plan, then either Settling Party may
6 invoke the Dispute Resolution provisions of Paragraph 44 if differences
7 cannot be resolved.

8 Consistent with this Court's January 7, 2014 Order (Docket No. 23), this Court will
9 continue to retain jurisdiction for the sole purpose of resolving any disputes between the Parties
10 with respect to enforcement of any provision of the October 2013 Settlement Agreement as
11 modified herein.

12 IT IS SO ORDERED.

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14 Dated: December 19, 2014

NORTHERN DISTRICT OF CALIFORNIA

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18 Honorable Howard R. Lloyd
19 United States District Court
20 Northern District of California
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